

SDMS DocID 2205000

**Kirstin M. Etela**  
*Associate General Counsel*  
*Litigation, EHSS & RA*  
**Chemtura Corporation**  
199 Benson Road  
Middlebury, CT 06749

203-573-2957 tel  
203-573-3118 fax  
kirstin.etela@chemtura.com

Kenneth I. Rose, III  
Financial Analyst (3HS62)  
U.S. Environmental Protection Agency, RIII  
1650 Arch Street  
Philadelphia, PA 19103-2029

April 16, 2012

Re: **Required Submission of Information**  
**Metro Container Site, Trainer, Pennsylvania**

Dear Mr. Rose,

Enclosed please find Chemtura Corporation's (Chemtura) response to the U.S. EPA's request for information for the Metro Container Site, received on March 9, 2012.

We have provided written responses to each individual request on the attached pages, and have attached these documents to back up our responses.

This letter shall not represent an express or implied admission of liability regarding Chemtura's alleged connection to the Metro Container Site. Chemtura denies that it is responsible for or otherwise caused any hazardous substances to be present at the Metro Container Site and hereby reserves all defenses available under the law regarding such claim, including, without limitation, those available under the Comprehensive Environmental Response, Compensation and Liabilities Act, 42 U.S.C. §§ 9600 et seq.

While Chemtura has made a diligent and good faith effort to respond fully and completely to the Requests, Chemtura nonetheless respectfully sets forth the following objections to preserve its rights:

**General Objection No. 1:** Chemtura objects to this Request to the extent that it exceeds authority granted to the U.S. EPA under Section 104(e) of CERCLA. Chemtura specifically objects to the Request to the extent that U.S. EPA has not presented "a reasonable basis to believe" that Chemtura has caused a "release or threatened release of a hazardous substance or pollutant or contaminant at

or from a vessel or facility" owned, operated or in any way contracted by Chemtura at the Metro Container Site. See 42 USC § 9604 (e)(1) and (2)(B).

General Objection No. 2: Chemtura objects to the Request to the extent that it purports to require Chemtura to divulge information protected by the attorney-client privilege, the work product privilege, or any other privilege recognized under applicable law.

General Objection No. 3: Chemtura objects to the Request to the extent it seeks information previously provided to the U.S. EPA, already available to U.S. EPA, or possessed by another governmental agency.

General Objection No. 4: Chemtura objects to the Request to the extent that, through that Request, U.S. EPA seeks information not relevant to the purpose stated in U.S. EPA's letter received March 9, 2012 or CERCLA Section 104(e).

Additionally, as Chemtura's following responses include descriptions of corporate methods of operation and processes, corporate history and other proprietary information, Chemtura respectfully requests that this letter be treated as confidential business information and not made available to the public. We recognize, of course, that this information may need to be made available to your "contractors" involved with the Metro Container Site and we have no objection to such release, but we ask that it be held in confidence by these parties.

Finally, Chemtura notes that on March 18, 2009, Chemtura and certain of its domestic affiliates (collectively, the "**Debtors**") each commenced a case under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "**Bankruptcy Code**"), in the United States Court for the Southern District of New York (the "**Bankruptcy Court**"). These chapter 11 cases have been jointly administered under case number 09-11233 (REG). On November 3, 2010, the Bankruptcy Court entered an order (the "**Confirmation Order**") confirming the *Joint Chapter 11 Plan of Reorganization of Chemtura Corporation, et al.* (the "**Plan**") [Dkt. No. 4409].<sup>1</sup> On November 10, 2010, the "Effective Date" under the Plan occurred, and the Debtors emerged from chapter 11 as the Reorganized Debtors.

As a result of confirmation of the Plan, the Debtors have been discharged from claims arising before the commencement of their chapter 11 cases, including claims relating to the Metro Container Site. The discharge under the Plan is effectuated by an injunction in the Bankruptcy Court's order confirming the Plan, which prevents the prosecution of discharged claims against the Debtors. We note that, during the chapter 11 cases, the U.S. EPA and the National Oceanic and Atmospheric Association ("**N.O.A.A.**") filed proofs of claim against various Debtors prior to a "Bar Date" of October 30, 2009 that had been set by the Bankruptcy Court. Those proofs of claim, which included claims for liability under CERCLA at various Superfund sites, particularly in U.S. EPA Region III, were addressed during the chapter 11 case and resolved pursuant to the terms of the Plan and settlement agreements with the U.S. EPA and the N.O.A.A. In fact, the U.S. EPA and Department of Justice engaged in settlement negotiations with Chemtura for over a year during the chapter 11 cases regarding the filed proofs of

<sup>1</sup> A copy of the Confirmation Order may be obtained free of charge at [www.kccilc.net/chemtura](http://www.kccilc.net/chemtura).

Kenneth I. Rose, III

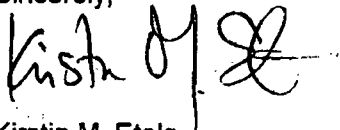
April 16, 2012

Page 3

claim and the various Superfund sites related thereto. At no time during the chapter 11 cases, did the U.S. EPA, the Department of Justice, N.O.A.A. or any other agency of the United States file a claim against Chemtura related to potential liabilities at the Metro Container Site in Trainer, PA. The time to do so has long since passed.<sup>2</sup>

Please do not hesitate to contact me at 203.573.2957 should you have any questions.

Sincerely,



Kirstin M. Etela

CC:

Joanne Marinelli, Chief, Cost Recovery Branch, U.S. EPA

Billie Flaherty, Chemtura Corporation

Ryan Hoyler, Chemtura Corporation

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<sup>2</sup> Witco Corporation (a/k/a Witco Chemical Corporation) (Witco), as predecessor to Chemtura, responded to similar 104(e) information requests regarding the Metro Container Site on April 28, 1988 and again on July 10, 1991 and supplied much of the same information being requested in this current information request. Therefore, the U.S. EPA was well aware of Witco (Chemtura) as a potential party of interest at this site long before the chapter 11 cases in March of 2009 and the subsequent Bar Date in October of 2009.

## CHEMTURA'S RESPONSES TO EPA'S REQUEST FOR INFORMATION

In addition to its specific objections below, Chemtura Corporation (Chemtura), restates its general objection to this information request as presented in its cover letter in response to each and every question. In addition, Chemtura, individually and as successor to Witco Chemical Corporation (Witco), reserves the right to supplement or amend these responses as new or additional information is identified, located or otherwise becomes available to it.

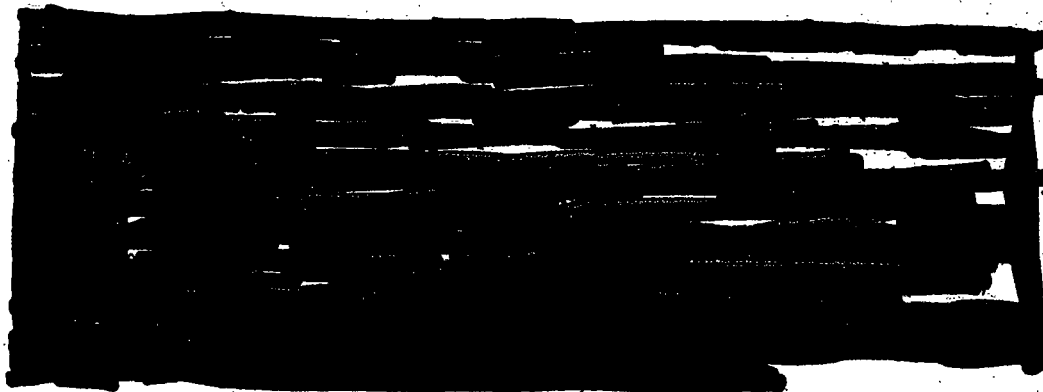
1. *EPA has information which indicates that you sent drums to the Metro Container Site between 1980-1988 from one or more of your facilities. For each such facility, identify:*
  - a. *The address of the facility; and*
  - b. *The products/materials produced at such facility between 1980-1988.*

**Response:**

Chemtura objects to this request to the extent that it presumes the products/materials produced at the facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:

a. 3300 North 4<sup>th</sup> Street, Trainer, PA 19013

b.



The products were manufactured at the plant during the period between 1980 and 1998. The plant and the business were sold to Stoney Creek Technologies LLC ("Stoney Creek") in July of 1998. Therefore, Chemtura no longer has information available to determine which of the above-listed products were produced specifically between 1980-1988.

2. *Identify the processes used between 1980-1988 to produce the products/materials in response to Question #1.*

**Response:**

Chemtura objects to this request to the extent that it presumes the products/materials produced at the facility in question caused any hazardous substances to be present at the Metro Container Site. Chemtura also objects to this

**All process information and specifications were transferred to Stoney Creek upon transfer of the plant and the business to it. Upon information and belief, and based on the responses previously provided to U.S. EPA regarding this site, specifically our response dated April 28, 1988 (attached as part of Exhibit A),** [REDACTED]

- Response:**

**All raw materials and process information and specifications were transferred to Stoney Creek upon transfer of the plant and the business to it. Upon information and belief, and including information in Unilateral Administrative Order CERC-03-2007-0255-DC (attached as Exhibit B),**

- Response:**

**All information regarding wastes and by-products was transferred to Stoney Creek upon transfer of the plant and the business to it.**

5. For each raw material and waste/by-product identified in response to Questions #3 and #4:
- Identify the chemical composition.
  - Provide a copy of all documents referring to or related to the composition of such raw material and waste/by-product including, but not limited to, chemical analyses performed on such raw materials and wastes/by-products; and
  - Identify how each waste/by-product was disposed of between 1980 and 1988.

**Response:**

Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:

- [REDACTED]
- See attached as exhibit B the Unilateral Administrative Order CERC-03-2007-0255-DC, specifically pages 2-7. [REDACTED]
- [REDACTED]

6. Identify all chemicals/constituents that would have been present in drums present at any time between 1980-1988 at the facilities identified in response to Question #1(a).

**Response:**

Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:

[REDACTED]

7. Identify, and provide a copy of, all contracts and agreements between you and Metro Container Corporation or any related entity under which drums were sent from your

*facilities to the Metro Container Site (your answer need not identify documents evidencing individual shipments of drums to the Site).*

**Response:**

**Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:**

**Chemtura does not have any copies of contracts or agreements between Witco and Metro Container Corporation. As Witco previously disclosed to EPA on July 10, 1991, Witco shipped 140 closed head drums to Metro Container Corp in 1985. As Witco previously disclosed to EPA on April 28, 1988, prior to 1987, Witco also shipped cleaned, empty drums to Metro Container Corp for reconditioning. (Both of these previous responses are attached as Exhibit A). Additionally, as indicated in the 1988 response, Witco purchased reconditioned drums from Metro Container Corporation for a period of time.**

8. *Identify the procedures used to determine which drums present at any time at your facilities would be sent to the Metro Container Site.*

**Response:**

**Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:**

**Chemtura has no knowledge of the procedures that Witco would have used to determine whether drums would be sent to Metro Container, but it is Chemtura's understanding, based on prior Witco responses to EPA, that in all cases the drums sent to Metro Container were emptied and cleaned before being sent for reconditioning.**

9. *Identify the chemicals/constituents contained in the drums you sent to the Metro Container Site.*

**Response:**

**Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:**

**With one exception, Witco only sent empty, cleaned drums to Metro Container Corporation. As previously disclosed by Witco to EPA in April 28, 1988, prior to being shipped, all drums were pumped, scraped or poured, based on the viscosity of**

the material, of any residual materials. The open head drums were then washed with mineral spirits and a brush. All drums, closed and open head, were then steamed for a minimum of four hours while inverted on a vertical pipe. Such procedures rendered the drums essentially clean and free of any residual materials before being shipped to Metro Container. As previously disclosed in 1991 the one noted exception occurred in 1985, when Witco accidentally shipped 140 drums to Metro Container Corp with M-400 residue, an overbased magnesium sulfonate. In this instance, the residue was drained at Metro Container and returned to Witco for recycling.

10. *If you assert in response to Question #9 that some or all of the drums sent to the Metro Container Site were empty, identify the chemicals/constituents that would have been in the drums before they were emptied.*

**Response:**

Chemtura objects to this request to the extent that it presumes the products/materials produced at our facility in question caused any hazardous substances to be present at the Metro Container Site. Without waving this objection, Chemtura responds:

See response to question 6 and see attached as exhibit B the Unilateral Administrative Order CERC-03-2007-0255-DC, specifically pages 2-7.

11. *Provide the name, title, address, and telephone number for the person answering these questions on your behalf. For each question, provide the name, title, area of responsibility, current address and telephone number for all persons consulted in preparation of the answers.*

**Response:**

**Ryan Hoyler**  
Paralegal, EHS&S, Regulatory Affairs and Litigation  
199 Benson Road  
Middlebury, CT 06749  
203-573-2701

**Kirstin Etela**  
Associate General Counsel, EHS&S, Regulatory Affairs and Litigation  
199 Benson Road  
Middlebury, CT 06749  
203-573-2957

As no persons with first-hand knowledge of the facility operations continue to be employed by Chemtura, the responders relied on documents remaining in Chemtura's possession.

12. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Your document retention policy;
  - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.);
  - c. The approximate date of destruction;
  - d. A description of information that would have been contained in the documents; and,
  - e. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.

**Response:**

When Witco sold the facility and the business to Stoney Creek in 1998, all documents detailing raw material orders, production or manufacturing, material or waste disposal and material or waste storage and materials management procedures were transferred to Stoney Creek as part of the sale. The only documents Chemtura has in its possession are documents related to site remediation and some discharge permits for the timeframe after the site was sold.

13. If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information that you provide in a response to this request should include the party's name, address, type of business, and the reasons why you believe that the party may have contributed to the contamination at the Site or may have information regarding the Site.

**Response:**

Stoney Creek, the purchaser of Witco's SACI business in July of 1998, may have information and documents related to the questions in this request. In addition, Samuel Thomas, former Witco plant manager and founder of Stoney Creek may have additional relevant information. Our last known contact information for Stoney Creek was:

3300 4<sup>th</sup> Street  
Trainer, PA 19061  
610-494-3561  
610-859-3500

## **Exhibit A**

**Witco Corporation's previous responses to EPA 104(e) information requests**

# Witco

Witco Corporation, 2701 Lake Street, Melrose Park, IL 60160-3041 Telephone 708-344-4300

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RECEIVED  
JUL 12 1991  
LEGAL DEPT

July 10, 1991

Ms. Karen M. Wolper  
Chief, Enforcement and Title III  
Section (3HW33)  
U.S. Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107

Re: Metro Container Site  
Trainer, Pennsylvania

Dear Ms. Wolper:

This is in confirmation of our telephone discussion of July 3, 1991 and in response to your letter of May 31, 1991 requesting further information as to our company's involvement with the above site between the years 1985 and 1987.

As we discussed, since December 1, 1987 the Witco facility at Trainer, Pennsylvania no longer used the Metro Container site to send their empty drums for reconditioning. As was described in my letter of April 28, 1988 to Lawrence Falkin, a copy of which is attached for your ready reference, any drums that were sent to the facility were first emptied, and if open head washed with mineral spirits, and then inverted and steamed to remove any residual materials.

On May 1, 1985, 140 closed head drums were shipped by mistake which contained a residue of M-400 product. This product is an overbased magnesium sulfonate. A photocopy of the material safety data sheet for such product is attached which describes the product as non-hazardous. The "T" in the product name indicates the product was manufactured at the Trainer facility. According to recollections of a now retired plant employee, Andrew Melinchuk, the 140 drums were drained and the material returned to the Trainer plant for recycling. Attached are photocopies of documents earlier submitted to the Agency describing this occurrence which are Bates stamped 000023 and 000024 on the reverse side.

Page 2 - Ms. Karen M. Wolper  
Re: Metro Container Site  
Trainer, Pennsylvania  
July 10, 1991

Except for the above transaction, no other materials except empty drums were shipped to Metro Container between 1985 and 1987.

I trust this is sufficient response to the Agency's inquiry.

Sincerely,

WITCO CORPORATION



William C. Grabarek  
House Counsel  
Midwest Regional Office

Attachments

WCG/mm

cc: A. M. Abrams ✓  
S. Arrow  
D. Sibert  
H. Rosenblatt  
R. Roller  
R. Angus

# Witco

Witco Corporation, 2701 Lake Street, Melrose Park, IL 60160 Telephone 312-344-4300

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

April 28, 1988

Mr. Lawrence Falkin  
U.S. Environmental Protection Agency  
Region III  
CERCLA Removal Enforcement Section  
(3HW14)  
841 Chestnut Building, 6th Floor  
Philadelphia, Pennsylvania 19107

Re: Metro Container Corporation Site

Dear Mr. Falkin:

This is in response to the Agency's letter dated April 12, 1988 to Samuel Thomas of our Trainer, Pennsylvania facility regarding the above captioned matter.

As we had earlier discussed, the Agency has granted Witco an extension to respond until May 2, 1988. As was also discussed, all future correspondence regarding this site should be sent to:

William C. Grabarek, Esq.  
Witco Corporation  
2701 Lake Street  
Melrose Park, Illinois 60160

Pursuant to the Agency's request, a review was conducted at our Trainer, Pennsylvania facility to determine its involvement with Metro Container Corporation, Metro Enterprise Corporation and Universal Container Corporation. The findings of this review are as follows: The Trainer facility has dealt with these organizations since 1973. Trainer has shipped empty 55 gallon drums to the site to be reconditioned and returned to Trainer or be resold by Metro. We also have purchased reconditioned drums from Metro. Approximately four years ago, however, Trainer eliminated use of reconditioned drums for packaging our products.

The drums that were sent to Metro were both open head and closed head 55 gallon drums and previously contained either finished products, plant raw materials, boiler treatment chemicals or laboratory solvents such as heptane and mineral spirits.

Page 2 - Mr. Lawrence Falkin  
Re: Metro Container Corporation Site  
April 28, 1988

Before being shipped to Metro for reconditioning, all drums were first emptied by pumping, pouring or scraping, depending on material viscosity, of any residual materials. The open head drums were then washed with mineral spirits and a brush. All drums, closed and open head, are then steamed for a minimum of four hours while inverted on a vertical steam pipe.

Such cleaning procedures render the drums essentially clean and free of residual materials when they are shipped to Metro for reconditioning. While most of the drums so sent to Metro were reconditioned, a small number had to be scrapped. Before scrapping they were burned and crushed. Of those drums that were reconditioned, certain quantities were returned to our Trainer facility for reuse while others were resold by Metro to other parties.

The enclosed Bates numbered photocopies of purchase memos, bills of lading and checks describe these transactions and their dates more fully. The original documents are at our Trainer facility under the custody of F. Raymond Angus.

Regarding Item 7 of the Agency's request, Witco Chemical Corporation has no real property interest in the subject site whether by lease, deed or otherwise.

Based on our review, we believe Witco should not be deemed a potentially responsible party at the site as neither hazardous wastes nor unwashed drums were sent there.

I trust this is sufficient response to the Agency's request.

Sincerely,

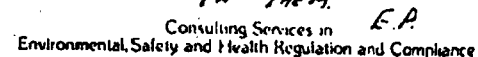
WITCO CORPORATION

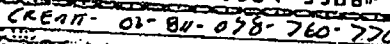


William C. Grabarek  
House Counsel  
Midwest Regional Office

Enc.  
WCG/mm

bcc: A. M. Abrams  
L. Nelson  
S. Arrow  
L. Gilbert  
R. Roller  
S. Thomas  
J. Long  
R. Angus  
A. Melinchuk

[illegible]



DETACH  
BEFORE  
DEPOSITING  
CHECK

# Witco MATERIAL SAFETY DATA SHEET

PRODUCT M-400T

HAZARD RATING N F P A	4 - EXTREME	Toxicity 1 0 0 0	Reactivity 1 0 0 0
	3 - HIGH		
	2 - MODERATE		
	1 - SLIGHT		
	0 - INSIGNIFICANT		

## SECTION I

WITCO MANUFACTURING DIVISION OR SUBSIDIARY		EMERGENCY TELEPHONE MANUFACTURER 1-215-494-3561 CHEM TREC 1-(800) 424-9300
1 Sonneborn Division		
ADDRESS (NUMBER, STREET, CITY, STATE, ZIP CODE)		
2 P.O. Box 418 - Marcus Hook, PA. 19061		
CHEMICAL NAME OR FAMILY	FORMULA	
3 Overbased Magnesium Sulfonate	4 $(C_{22}H_{45}C_6H_4SO_3)_2Mg + MgCO_3$	

## SECTION II - CHEMICAL AND PHYSICAL PROPERTIES

CHEMICAL	PHYSICAL
HAZARDOUS DECOMPOSITION PRODUCTS	FORM
5 Upon combustion, CO <sub>2</sub> , CO, and oxides of sulfur are generated.	8 Viscous liquid
INCOMPATIBILITY (KEEP AWAY FROM)	ODOR
6 Strong oxidizing agents such as chromic acid, hydrogen peroxide and bromine.	9 Oil-like
LIST ALL TOXIC AND HAZARDOUS INGREDIENTS	APPEARANCE
7 NDA	10 Clear
	COLOR
	11 Brown
	SPECIFIC GRAVITY
	12 WATER = 1 1.16 @ 15.6°C
	BOILING PT.
	13 IBP >260 °C >500 °F
	MELTING PT.
	14 NA °C NA °F
	SOLUBILITY IN WATER
	15 AT 25 °C Slight
	% VOLATILE (BY WT %)
	16 Nil
	EVAP. RATE
	17 NA
	VAPOR PRESSURE
	18 (mm Hg at 20 °C) 0.00035 @ 37.8°C
	VAPOR DENSITY (AIR = 1)
	19 NA
	pH AS IS
	20 pH (NA) Moderately basic
	STRONG ACID
	STRONG BASE
	STABLE
	21 UNSTABLE
	VISCOSITY SUS
	22 AT 100 °F <100 = 1000R >X
	CAS #61789-87-5

## SECTION III - FIRE AND EXPLOSION DATA

SPECIAL FIRE FIGHTING PROCEDURES	FLASH POINT (METHOD USED)
24 Wear self-contained breathing apparatus. Water spray is an unsuitable extinguishing agent. (See Extinguishing Agents - Section 28)	ASTM D-92
UNUSUAL FIRE AND EXPLOSION HAZARDS	26 191 °C 375 °F
25 None	FLAMMABLE LIMITS %
	NDA
	27 LOWER UPPER
	EXTINGUISHING AGENTS
	X DRYCHEMICAL X CO <sub>2</sub>
	X WATERSPRAY X FOAM
	X WATERFOG X SAND/EARTH
	28 OTHER

## SECTION IV - HEALTH HAZARD DATA

PERMISSIBLE CONCENTRATIONS (AIR)
29 NA
EFFECTS OF OVEREXPOSURE
30 Avoid prolonged contact with skin. SEE SECTION IX - COMMENTS.
TOXICOLOGICAL PROPERTIES
31 Oral LD <sub>50</sub> >25 gm/kg of body weight (rats).
EMERGENCY FIRST AID PROCEDURES
32 EYES - Flush with large amounts of water for at least 15 minutes. Call physician.
33 SKIN CONTACT - Wash with soap and water.
34 INHALATION - NA
35 IF SWALLOWED - Call physician.

NA = NOT APPLICABLE

NDA = NO DATA AVAILABLE

< = LESS THAN

> = MORE THAN

# Witco MATERIAL SAFETY DATA SHEET

PRODUCT M-400T**SECTION V - SPECIAL PROTECTION INFORMATION**

VENTILATION TYPE REQUIRED (LOCAL, MECHANICAL, SPECIAL)

NA

36

RESPIRATORY PROTECTION (SPECIFY TYPE)

NA

37

PROTECTIVE GLOVES

38

Oil resistant rubber

EYE PROTECTION

39

Chemical splash goggles

OTHER PROTECTIVE EQUIPMENT

40

Rubber apron

**SECTION VI - HANDLING OF SPILLS OR LEAKS**

PROCEDURES FOR CLEAN-UP

Shut off leak, dike up large spills. Use inert absorbent material such as earth, sand, or vermiculite for clean-up.

41

WASTE DISPOSAL

Dispose of in accordance with Local, State, and Federal government regulations.

42

**SECTION VII - SPECIAL PRECAUTIONS**

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORAGE

Avoid exposure to heat and flame. Protect against eye and skin contact. Wash thoroughly after handling.

43

**SECTION VIII - TRANSPORTATION DATA**UNREGULATED  
BY D.O.T. ☒

44

U.S. D.O.T. PROPER SHIPPING NAME

NA

U.S. D.O.T. HAZARD CLASS

NA

REGULATED  
BY D.O.T. ☐

45

TRANSPORTATION  
EMERGENCY  
INFORMATION

46

47

48

49

50

51

52

53

LABEL(S) REQUIRED

NA

I.D. NUMBER

NA

FREIGHT CLASSIFICATION

Petroleum Oil (S) NOIBN

SPECIAL TRANSPORTATION NOTES

NA

CHEM TREC

1-(800) 424-9300

**SECTION IX - COMMENTS** - Avoid prolonged contact with skin. When Overbased Magnesium Sulfonate was painted on rabbit's skin for prolonged periods, damage was observed to the tissue of the rabbit's liver and testicles. These tests represent extreme exposure conditions. When this material is handled with normal protective equipment such as impervious gloves there should be no significant hazard. Be sure to wash after handling and wash contaminated clothing before reuse.

SIGNATURE Paul G. TietzeTITLE Manager, Technical Service

Tel: 212-605-3908

REVISION DATE May 22, 1986

SENT TO ATTN: \_\_\_\_\_

SUPERSEDES Sept. 1985

DATE \_\_\_\_\_

We believe the statements, technical information and recommendations contained herein are reliable, but they are given without warranty or guarantee of any kind, express or implied, and we assume no responsibility for any loss, damage, or expense, direct or consequential, arising out of their use.

## **Exhibit B**

**Unilateral Administrative Order CERC-03-2007-0255-C**

**Stoney Creek Technologies Site, Trainer, PA**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA OVERNIGHT MAIL**  
**URGENT LEGAL MATTER**  
**IMMEDIATE RESPONSE REQUIRED**

Robert L. Wood, President  
Chemtura Corporation  
199 Benson Road  
Middlebury, Connecticut 06749

Re: Stoney Creek Technologies Site  
Trainer, Delaware County, Pennsylvania  
Unilateral Administrative Record  
**(EPA Docket No. CERC-03-2007-0255-DC)**

Dear Mr. Wood:

Enclosed please find a copy of a Unilateral Administrative Order ("Order") issued pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9606, and Section 311(c) and (e) of the Clean Water Act, as amended (CWA), 33 U.S.C. § 1321 (c) and (e) and directed to you ("Respondent") at a facility owned or operated by another party (Stoney Creek Technologies LLC) located at 3300 West 4<sup>th</sup> Street in Trainer, Pennsylvania ("Site").

This Order is issued to direct Respondent to undertake certain removal response activities ("Work"), which Respondent has indicated it may perform, at the Site located in Trainer, Delaware County, Pennsylvania, and to ensure that such response action is conducted in a manner that is protective of public health and welfare and the environment and consistent with the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, CERCLA and CWA. EPA acknowledges that Respondent has initiated work at the Site consistent with the Work requirements of the Order and we look forward to working cooperatively with you to complete this action. The Order directs Respondent to perform specific actions and specifies the time frames within which such actions must be taken.

Please be aware that you are required to provide notice to EPA of Respondent's intent to comply with the Order within **seven (7) business days** of the issue date of the Order. The Order also provides an opportunity for Respondent to confer with EPA, within **five (5) business days** of the issue date of the Order, regarding the requirements of the Order. Failure to comply with the Order may subject Respondent to civil penalties of up to \$32,500 per day as a result of failure to comply with the Order.

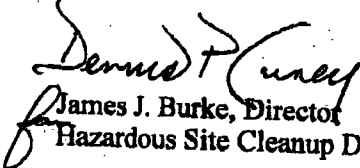
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AUG 7 2007

CHEMTURA CORPORATION  
LAW DEPARTMENT

If you have questions of a technical nature, you may contact Michael Towle of my staff at (215) 814-3272. Legal questions should be directed to Chris Minshall, Assistant Regional Counsel, at (215) 814-2473.

Sincerely,

  
James J. Burke, Director  
Hazardous Site Cleanup Division

Enclosure

cc: Tracy Perkins, Chemtura Corporation  
Chris Minshall (3RC41)  
Michael Towle (3HS31)  
Joe Feola, PADEP

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

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EPA REGION III PHILA. PA

**IN THE MATTER OF:**

Stoney Creek Technologies Site

Chemtura Corporation

**Respondent**

Docket No. CERC-03-2007- 0255-DC

Proceeding Under Section 106(a)  
of the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended  
by the Superfund Amendments and  
Reauthorization Act of 1986,  
42 U.S.C. § 9606(a)

Proceeding Under Section 311(c) and (e)  
of the Clean Water Act, as amended,  
33 U.S.C. § 1321 (c) and (e)

**ADMINISTRATIVE ORDER**  
**FOR REMOVAL RESPONSE ACTION**

Having determined the necessity for implementation of response activities at or relating to the Stoney Creek Technologies Site, located at or in close proximity to 3300 West Fourth Street in Trainer, Delaware County, Pennsylvania ("Site"), the United States Environmental Protection Agency ("EPA"), hereby issues this Order to the above-named Respondent as follows:

**I. JURISDICTION AND GENERAL PROVISIONS**

- 1.1 This Order is issued pursuant to the authority vested in the President of the United States by Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9606;

and Section 311 (c) and (e) of the Clean Water Act, as amended ("CWA"), 33 U.S.C §1321 (c) and (e),

- 1.2 Authority to issue orders pursuant to Section 106 of the CERCLA is delegated from the President of the United States to the Administrator of EPA by Executive Order No. 12,580, 52 Fed. Reg. 2923 (January 29, 1987); and further delegated to the Director of the Hazardous Site Cleanup Division, EPA Region III.
- 1.3 Authority to issue orders pursuant to Section 311 (c) and (e) of the CWA is delegated from the President of the United States to the EPA Administrator by Executive Order No. 12777, 58 Fed. Reg. 54757, October 22, 1991; and further delegated to the Director of the Hazardous Site Cleanup Division.
- 1.4 This Order pertains to the Stoney Creek Technologies Site or "Site," which is further described in paragraph 3.3 below.
- 1.5 Respondent shall comply with all requirements of this Order, including any modifications hereto ("Work"). Respondent shall undertake actions required by this Order in conformance with the requirements of this Order.
- 1.6 The Work shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 C.F.R. Part 300; the Oil Pollution Act of 1990, 33 U.S.C. §§2701 et seq., the Clean Water Act and CERCLA.
- 1.7 This Order is issued to Chemtura Corporation ("Respondent").

## **II. STATEMENT OF PURPOSE**

- 2.1 In issuing this Order, as it pertains to hazardous substances, the general objective of EPA is to protect the public health and welfare and the environment by ensuring that a proper removal response action, as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23), is conducted to abate, mitigate and/or eliminate the release or threat of release of certain hazardous substances at the Site (as hereinafter described), by properly characterizing and disposing or arranging for the commercial utilization, reuse or recycling of certain hazardous substances located therein.
- 2.2 As this Order pertains to oil, the general objective of EPA is to abate, mitigate and/or eliminate any threat to public health and welfare and the environment posed by a discharge and/or threat of discharge of certain oils at or from the Site by containing and preventing the migration of certain oils to navigable waterways or adjoining shorelines, by assessing the extent of oil contamination at and from the Site, by recovering oil from the Site, and by properly disposing and/or arranging for the reuse or recycling of the recovered oil or oil-contaminated materials.

- 2.3 This Order does not address all contamination at the Site, and further actions may be appropriate and required with respect to other sources of contamination at the Site, including but not limited to other inventory, soils and facility decontamination or closure.

### **III. FINDINGS OF FACT**

- 3.1 Stoney Creek Technologies LLC operates a chemical manufacturing facility primarily producing base compounds for corrosion inhibitors, motor oil additives, and grease feed compounds at the Site.
- 3.2 From approximately 1998 until the present day, Stoney Creek Technologies LLC has operated a chemical manufacturing facility at the Site, located in Trainer, Delaware County, Pennsylvania. Operations at the Site include preparing chemical process intermediates from which various chemical products are eventually produced in various tanks, vessels, and equipment.
- 3.3 The Site is located at 3300 West Fourth Street in a mixed industrial and residential area of Trainer, Delaware County, Pennsylvania. The Site consists of an estimated 13 acres of property on which is located the chemical manufacturing facility. The chemical manufacturing facility includes approximately 200 tanks, numerous other vessels, containers and equipment items, piping, a laboratory, buildings, railroad siding, water treatment plant, and other appurtenances related to the production of chemical products. The Site additionally includes any and all places where contamination from the operations at the Site has migrated or otherwise come to be located.
- 3.4 Respondent is associated with Stoney Creek Technologies and the Site because, among other things, Respondent arranged with Stoney Creek Technologies for chemicals, including hazardous substances, to be located at the Site for processing into products for Respondent to sell into the stream of commerce. Chemical processing operations have resulted in the generation of material (e.g., co-product or waste material) which is not prepared for commercial utilization by Respondent and is instead mixed with other materials and transferred off-Site for other purposes (e.g., utilization in asphalt manufacture). During operations at the Site, some spilled materials migrate to the on-Site waste water pre-treatment plant, are neutralized and discharged from the Site.
- 3.5 Respondent has provided raw materials to the Site to produce chemical process intermediates and chemical products for sale into the stream of commerce. Many of the chemical products, raw materials, and chemical process intermediates

contain or are comprised of chemical substances which are considered hazardous substances pursuant to CERCLA or oil pursuant to the CWA and OPA.

- 3.6 Based upon available information provided by Stoney Creek Technologies LLC, raw materials utilized to produce chemical products at the Site include or have included oleum (sulfuric acid and sulfur trioxide), methanol, heptane, morpholine, sodium hydroxide, potassium hydroxide, acetic acid, and various oily materials including mineral spirits, heptane, mineral oil, linseed oil, alkylbenzenes, and wax. Based upon available information, the chemical process intermediates include or were generally produced from reactions or mixtures of the raw materials utilized in the chemical manufacturing process. Many of the chemical process intermediates are comprised of blends, include additives, or result from processes that are considered confidential by the Site operator. Respondent has provided some of the chemicals and oil materials identified in this paragraph to the Site.
- 3.7 The current inventory of chemicals at the Site indicates that approximately 17 million pounds of raw materials, chemical process intermediates, chemical products, off-specification material, reject material, waste material, other chemicals, or chemicals used to support on-Site activities are present in the tanks and vessels at the Site or are otherwise located at the Site. The inventory indicates that Respondent may have provided an estimated 3 million pounds of the inventory at the Site considered "Chemtura Inventory" in this Order. Upon information and belief, Respondent retains ownership of Chemtura Inventory
- 3.8 Operations at the Site have resulted in the generation of material that does not meet product specification or results from the incomplete emptying of vessels during batch processing and the generation of chemical material recovered from the waste water treatment plant or spilled within the chemical manufacturing facility. These chemicals are typically re-utilized on-Site, stored for re-utilization in the on-Site production process, or otherwise transferred from the Site. However, certain materials, e.g., centrifuge reject material, are presently located in a flyash pile at the Site. Further, spilled materials are able to migrate to the on-Site waste water treatment plant.
- 3.9 Sulfuric acid, methanol, sodium hydroxide, potassium hydroxide, and acetic acid are listed as hazardous substances at 40 C.F.R. § 302.4.
- 3.10 Mineral spirits, heptane, mineral oil, linseed oil, alkylbenzenes, as well as various other refined oily materials such as wax used at the Site are considered oil.
- 3.11 Other chemicals are also used in the manufacturing process, e.g., morpholine, that contribute to the threats posed by the Site.
- 3.12 Operations at the Site include utilization of other chemicals to support processes related to the manufacturing of chemical products or treatment of discharges and/or emissions from the Site. Among other things, carbon dioxide and calcium

hydroxide are used to produce chemical products; sulfuric acid and potassium hydroxide to treat discharges; nitrogen to suppress vapors; fuel oil to run boilers; and, chlorinated fluorocarbons to condense vapor streams.

- 3.13 The EPA On-Scene Coordinator (OSC) initiated a Superfund removal site evaluation at the Site on or about April 13, 2007, after receipt of notification from the U.S. Bankruptcy Court of situations at the Site that may impact human health and the environment. The OSC began an evaluation of the potential threats by examining the facility, the inventory contained therein, and the ability of Stoney Creek Technologies LLC to mitigate threats.
- 3.14 The Site includes about 200 tanks and about 1000 drums and other containers.
- 3.15 The chemicals in the tanks are most safely maintained within the tanks when certain systems (e.g., nitrogen system) are operated. Without a workforce to operate the systems or without electrical power, these systems will become much less effective at preventing a release of chemicals to the environment.
- 3.16 Many of the chemicals in the tanks, drums and other containers contain volatile organic compounds that would release to the air in the event of a spill or in absence of the operating vapor recovery or pollution controls designed to reduce vapor emissions from the tanks and operating process vessels. Vapors from these chemicals could ignite and pose a fire and explosion threat. If the vapors from the chemicals at the Site do not ignite if they are released, they will migrate to downwind populations. These residents would then be potentially exposed to the chemicals at the facility. For example, inhalation of organic compounds such as methanol could be toxic to the nervous system. If vapors from tanks containing acids should release, they will migrate downwind and potentially expose residents to the chemicals at the facility. For example, inhalation of acid chemicals at the facility could damage tissue within the respiratory system. If the wastewater treatment plant is not operative, chemicals at the site could also release through water migration pathways. If the chemicals do not ignite when released, these chemicals (untreated) could impact the regional waste water treatment authority's ability to treat area wastewater from many sources and/or discharge to nearby Stoney Creek.
- 3.17 Stoney Creek flows adjacent to the Site and receives stormwater discharges from the Site. During heavy rain events, stormwater combined with or contaminated by process waste waters, is discharged to Stoney Creek. Stoney Creek flows to the nearby Delaware River which is navigable.
- 3.18 The facility uses nitrogen in the airspace of the tanks to reduce the oxygen content and prevent the airspace of the tanks from becoming flammable. Many tanks are connected by a common venting system which sweeps air from the tanks and prevents buildup of vapors which could endanger the integrity of the chemicals and containment. Ignition of vapors in the venting system could travel to many tanks. The facility has suffered fire events in tanks and also in trenches.

conveying wastewater to the wastewater treatment plant. The OSC has coordinated with the local fire chief and verified that the fire chief has significant concerns about the fire threat posed by the chemicals at the plant especially if the facility loses power or a trained workforce. Fire prevention and fire suppression and emergency notification systems at the facility rely on electricity.

- 3.19 These threat conditions will exist if the facility is unable to reliably provide energy and a workforce to maintain stable conditions at the facility.
- 3.20 Based on the threats posed by the Site and consistent with Regional Delegation of Authority 14-2 and the NCP, the On-Scene Coordinator issued Special Bulletins A and B on April 17 and April 25, respectively, identifying the threats posed by the Site and the actions necessary to mitigate the threats.
- 3.21 By letter dated April 27, 2007, EPA notified Respondent of its potential liability at the Site. In its letter, EPA informed Respondent that unless other arrangements were made immediately, EPA planned to conduct response actions to reduce any immediate threat to human health and/or the environment. In its letter, EPA requested Respondent to contact EPA in writing on or before noon on May 11, 2007 to advise EPA of Respondent's ability and willingness to address the threats.
- 3.22 Based on the information described above, on July 27, 2007, the Director of the Hazardous Site Cleanup Division for EPA Region III determined that a threat to public health, welfare and/or the environment exists due to the actual or threatened release of hazardous substances and/or oil from the Site, and authorized funds for a removal action.

#### IV. CONCLUSIONS OF LAW

- 4.1 The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9); Section 1001(9) of the OPA, 33 U.S.C. § 2701(9); and 40 C.F.R. § 300.5.
- 4.2 The Site is an "onshore facility" as defined by Section 311 (a)(10) of the CWA, 33 U.S.C., 33 U.S.C § 1321 (a)(10); Section 101(18) of CERCLA, 42 U.S.C. § 9601(18); Section 1001(24) of OPA; and 40 C.F.R. § 300.5.
- 4.3 Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21); Section 311 (a)(7) of the CWA, 33 U.S.C. § 1321 (a)(7); Section 1001(27) of the OPA, 33 U.S.C. § 2701 (27); and 40 C.F.R. § 300.5.
- 4.4 Methanol, sulfuric acid, acetic acid, sodium hydroxide and potassium hydroxide are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), because they are listed at 40 C.F.R. § 302.4. Mineral spirits, heptane, mineral oil, linseed oil, alkylbenzenes and wax are "oils" within

- the meaning of Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1); Section 1001(23) of the OPA, 33 U.S.C. § 2701(23); and 40 C.F.R. § 300.5.
- 4.5 "Hazardous substances," as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and "oils" as defined in Section 311(a)(1) of the CWA, 33 U.S.C. § 1321(a)(1) and Section 1001(23) of the OPA are currently present at the Site.
- 4.6 The presence of hazardous substances at the Site and the past, present, and/or potential migration of hazardous substances from the Site constitutes an actual and/or threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). The presence of oil at the Site and the past, present, and/or potential migration of oil from the Site constitutes a discharge and/or threatened "discharge" as defined in Section 311 (a)(2) of the CWA, 33 U.S.C. § 1321(a)(2) and Section 1001(23) of the OPA, 33 U.S.C. § 2701(23).
- 4.7 Respondent is a "person who by contract, agreement, or otherwise arranged for disposal or treatment of hazardous substances owned or possessed by such person, at a facility owned or operated by another party or entity and containing such hazardous substances" within the meaning of Section 107(a)(3) of the CERCLA, 42 U.S.C. § 9607(a)(3).
- 4.8 EPA has determined that Respondent is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- 4.9 Stoney Creek is a navigable water and/or discharges to a navigable water as defined by Section 1001 of the OPA, 33 U.S.C. § 2701(21); Section 502(7) of the CWA, 33 U.S.C. § 1362(7); and 40 C.F.R. § 300.5.
- 4.10 Stoney Creek and the waters to which it discharges are "natural resources" as defined in Section 1001(20) of the OPA, 33 U.S.C. § 2701(20) and 40 C.F.R. § 300.5.

## **V. DETERMINATIONS**

Based on the Findings of Fact and Conclusions of Law set forth above, and the Administrative Record supporting this Order, EPA has determined that:

- 5.1 The actual and/or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
- 5.2 The discharge and/or substantial threat of a discharge of oil from the Site is of such size and/or character as to be a substantial threat to public health or welfare of the United States within the meaning of Section 311(c) of the CWA, 33 U.S.C. § 1321(c).

- 5.3 The actual and/or threatened discharge of oil from the Site may present an imminent and substantial threat to the public health or welfare of the United States, including fish, shellfish, and wildlife, public and private property, shorelines, beaches, habitat, and other living and nonliving natural resources under the jurisdiction or control of the United States within the meaning of Section 311(e)(1) of the CWA, 33 U.S.C. § 1321(e)(1).
- 5.4 The Work required by this Order is necessary to protect the public health and welfare and the environment.
- 5.5 Because there is a threat or potential threat to public health or welfare or the environment, a response action is appropriate to abate, minimize, stabilize, mitigate or eliminate the release and/or threat of release of hazardous substances from the Site.
- 5.6 Because there is a threat or potential to public health or welfare or the environment, a removal is appropriate to abate, minimize, stabilize, mitigate or eliminate the discharge and/or threat of discharge of oil at or from the Site.

#### **VI. PARTIES BOUND**

- 6.1 This Order shall apply to and be binding upon Respondent and its agents, successors, and assigns. Neither a change in ownership or corporate or partnership status of Respondent, nor a change in ownership or control of the Site, shall in any way alter Respondent's responsibilities under this Order.
- 6.2 No change in ownership of any property covered by this Order shall in any way alter, diminish, or otherwise affect any of Respondent's obligations and responsibilities under this Order, except as may qualify as a Force Majeure event.
- 6.3 In the event that the Respondent files for or is placed into bankruptcy, the Respondent shall notify EPA within three (3) days of such event.
- 6.4 Respondent shall provide a copy of this Order to all contractors, subcontractors, supervisory personnel, laboratories and consultants retained by Respondent to conduct any portion of the Work to be performed by Respondent pursuant to this Order. Respondent shall require in any and all contracts related to this Site that the Work that is the subject of such contract be performed within the time and in the manner set forth in this Order.

## **VII. NOTICE TO THE STATE**

- 7.1 Notice of issuance of this Order has been given to the Commonwealth of Pennsylvania pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a) and in accordance with Section 311 (e)(1)(B) of the CWA, 33 U.S.C. § 1321(e)(1)(B).

## **VIII. REMOVAL OF MATERIALS**

- 8.1 Respondent shall commence and complete performance of the following response action within the time periods specified herein, and according to the terms set forth in this Order.
- 8.2 Within seven (7) calendar days of the effective date of this Order, Respondent shall notify EPA in writing of the identity and qualifications of the contractor, subcontractor, supervisory personnel, and other persons who will be primarily responsible for implementing the response actions required by this Section. Respondent shall further notify EPA in writing of the identity and qualifications of all contractors, subcontractors, supervisory personnel and other persons selected by Respondent who will conduct all or any portion of the response action no less than five (5) days prior to commencement of the response action to be performed by such persons. Respondent shall ensure that all contractors, subcontractors, supervisory personnel and/or other persons retained to perform response actions shall meet the applicable Occupational Safety and Health Administration ("OSHA") requirements as defined in 29 C.F.R. § 1910.120. The Respondent's selection of all contractors, subcontractors, supervisory personnel and other persons who will perform response action; the Respondent's Project Coordinator designated pursuant to Section IX; and any replacements to any such persons are subject to disapproval by EPA at any time. In the event of any such disapproval by EPA, Respondent shall notify EPA within five (5) calendar days of receipt of such EPA disapproval of the Respondent's selection of the person(s) who will replace the one(s) disapproved by EPA. If a person's selection is disapproved by EPA, they shall not perform such specified response action.
- 8.3 Until such time as EPA OSC determines that the threats identified in this Order are mitigated as defined in this Order, Respondent shall accomplish the items described in this Section. Respondent shall accomplish the items in this Section while adhering to all appropriate procedures, protocols, and plans pertinent to the operation and security of the Stoney Creek facility, in compliance with the substantive requirements of applicable environmental regulations, and as accepted by the EPA On-Scene Coordinator:
- a. Remove from the Site chemical inventory provided by, owned, or controlled by Respondent ("Chemtura Inventory").
  - b. Chemtura Inventory shall be directly removed from individual tanks and containers at the Site, and/or processed, in accordance with 8.3.d

below, using Stoney Creek Technologies' chemical manufacturing facility before removal from the Site.

- c. Chemtura Inventory shall be removed until no Chemtura Inventory remains at the Site and tanks containing Chemtura Inventory are empty as defined in RCRA.
- d. Any processing of Chemtura Inventory shall be in accordance with the "Procedures and Conditions for Stoney Creek Technologies Mitigation of Potential Threats" (Exhibit A), and existing facility protocols and procedures and plans. Additionally, Respondent may transfer hazardous substances and oil into the facility only upon approval of the EPA On-Scene Coordinator. All operation of facility systems must occur in a manner that does not result in a release of hazardous substances or discharge of oil to the environment above standards and levels identified in permits applicable to operations at the facility and/or above substantive requirements of environmental regulations;
- e. Chemtura Inventory can be prepared and sold into the stream of commerce. Chemtura Inventory which is not sold, must be prepared and then disposed or recycled off-Site.
- f. Preparation activities include marking, labeling, placarding, sampling, pumping, bulking, consolidating, drumming, or treating materials to ensure they are transported safely and consistent with the hazardous waste management regulations at 40 C.F.R. Part 262, and U.S. Department of Transportation requirements and applicable State law.
- g. Chemtura Inventory that is oil sold into the stream of commerce shall go to responsible and/or established customers. Chemtura Inventory containing hazardous substances that is transferred from the Site shall be transferred in accordance with Section 121 (d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3). In addition, any transfer of hazardous substances, pollutants or contaminants from the Site to an off-Site facility for treatment, storage or disposal required by this Order shall be performed in accordance with 40 C.F.R. § 300.440 and in accordance with Section 8.9 of this Order.
- h. Prepare a Site-specific Health and Safety Plan ("HASP") for actions to be performed at the Site to protect the health and safety of workers, other personnel and the public from the hazardous substances and work-related health and safety hazards during performance of the Removal Action. The HASP shall be consistent with paragraph 8.3.i.
- i. The HASP shall, as appropriate, provide for proper decontamination of personnel and equipment, monitoring and control of offsite migration of hazardous substances during the performance of activities at the Site

and protection of public health from exposure to hazardous substances during the conduct of activities at the Site pursuant to this Order. Health and safety requirements in the HASP shall be at least as stringent as those set forth in Occupational Safety and Health Administration and EPA requirements, including but not limited to, requirements contained in 29 C.F.R. § 1910.120 and/or EPA Standard Operating Safety Guides (July 5, 1988).

- j. Prepare and submit an expeditious schedule for accomplishing the above items to EPA within fourteen (14) days of the effective date of this Order.

- 8.4 Beginning seven (7) calendar days subsequent to the date of receipt of this Order and every seven (7) calendar days thereafter or longer as may be determined by the EPA Project Coordinator designated pursuant to Section IX, and until EPA advises Respondents that the Work is complete, the Respondents shall provide EPA with a progress report for each preceding seven (7) day period or, if applicable, the period specified in writing by the EPA Project Coordinator. The progress reports shall include, at a minimum: 1) a description of the response action completed and the actions that have been taken toward achieving compliance with this Order, 2) a description of all data anticipated and activities scheduled for the next seven (7) calendar days or, if applicable, the period specified in writing by the EPA Project Coordinator; 3) a description of any problems encountered or anticipated; 4) any actions taken to prevent or mitigate such problems; 5) a schedule for completion of such actions; 6) copies of all analytical data received during the reporting period; and 7) all modifications to the response action and schedule made in accordance with Section XV of this Order during the reporting period.
- 8.5 Unless otherwise provided herein, documents, including plans, reports, sampling results and other correspondence to be submitted pursuant to this Order, shall be hand delivered or sent electronically by means of e-mail to the EPA Project Coordinator, unless otherwise agreed to by the EPA Project Coordinator designated pursuant to Section IX.
- 8.6 All reports, plans, specifications, schedules and attachments required by this Order are subject to EPA approval and shall be incorporated into this Order upon approval by EPA. In the event that EPA approves a portion of a report or other item required to be submitted to EPA under this Order, the approved portion shall be enforceable under this Order. In the event of conflict between this Order and any document attached hereto, incorporated in or enforceable hereunder, the provisions of this Order shall control. In the event that EPA disapproves any required submission, EPA will (1) specify the deficiencies in writing, and/or (2) submit its own modifications to the Respondent to accomplish the Work outlined in paragraph 8.3 above. Respondent shall amend and submit to EPA a revised submission that responds to and corrects the specified deficiencies within five (5) business days of receipt of EPA disapproval or such longer time as may be

specified by EPA in its discretion. In the event that EPA submits its own modifications to the Respondent, the Respondent is hereby required to incorporate such modifications. Any non-compliance with EPA-approved plans, reports, specifications, schedules, attachments, or submission of deficient revisions following EPA disapproval, or non-compliance with an EPA required modification shall be considered a failure to comply with a requirement of this Order. Determination(s) of non-compliance will be made by EPA.

- 8.7 In addition to the information and documents otherwise required by this Order, Respondent shall provide to EPA, upon written request, any and all information and documents in its possession, custody or control related to the Site including, but not limited to, Site analytical data (including raw data); Site safety data; Site monitoring data; operational logs; copies of all hazardous waste manifests (including copies of all hazardous waste manifests signed upon receipt of the hazardous wastes by a licensed treatment, storage or disposal facility); the identity of treatment, storage and/or disposal facilities used; the identity of transporters used; the identity of any contractors, subcontractors and supervisory personnel used; information and documents concerning Respondent's compliance with Quality Assurance and Quality Control requirements of this Order; information and documents relating to Respondent's efforts to secure access; information and documents which demonstrate compliance with Section 8.3 of this Order, and information and documents relating to any project delays. Nothing herein shall be interpreted as limiting the inspection and information-gathering authority of EPA under Federal law.
- 8.8 Within twenty (20) calendar days of the date Respondent concludes that it has completed the items identified in paragraph 8.3, above, Respondent shall submit a written Final Report to EPA subject to EPA approval described in 8.9 below. The Final Report shall detail the Work undertaken to implement the items identified in paragraph 8.3, above, and shall be certified by Respondent in accordance with the terms of Section XVIII, below. EPA will review the adequacy of Respondent's implementation and accomplishment of items specified in paragraph 8.3 above. EPA will notify Respondent, in writing, of any discrepancies in the Final Report or deficiencies in the execution of the items identified in paragraph 8.3, above, and the actions required to correct such discrepancies or deficiencies. Within five (5) business days of receipt of notification by EPA, or as otherwise specified by EPA in its discretion, Respondent shall, as directed by EPA, amend the Final Report, develop an additional plan to address such discrepancies or deficiencies. Any additional plan will be subject to the approval procedures outlined in paragraph 8.6. Respondent shall perform all actions approved by EPA in a manner consistent with the NCP and all applicable Federal laws and regulations, as required by the NCP.
- 8.9 Respondent shall not handle or remove any hazardous substances or oil from the Site except in conformance with the terms of this Order, including, without limitation, Section XIX (Shipment of Hazardous Substances) of this Order and all applicable Federal, State and local laws and regulations, as required by the NCP.

Any transfer of hazardous substances, pollutants or contaminants from the Site to an off-Site facility required by this Order shall be performed in accordance with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3). In addition, any transfer of hazardous substances, pollutants or contaminants from the Site to an off-Site facility for treatment, storage or disposal required by this Order shall be performed in accordance with 40 C.F.R. § 300.440.

- 8.10 Respondent shall not commence any Work except in conformance with the terms of this Order. Respondent shall not commence implementation of the Work developed hereunder until receiving written EPA approval to proceed. Any additional plan will be subject to the approval procedures outlined in paragraph 8.6.
- 8.11 Respondent shall immediately notify EPA's Project Coordinator and the National Response Center [(800) 424-8802] and any other party required by law in the event of any action or occurrence during the pendency of this Order which causes or threatens to cause an additional release of hazardous substances, pollutants or contaminants or oil on, at or from the Site, or which may create a danger to public health, welfare or the environment.
- 8.12 In the event that EPA believes that response actions or other activities at the Site by Respondent are causing or may cause a release of hazardous substances or a discharge of oil, or are a threat to public health or welfare or the environment, EPA may, in its discretion, immediately halt or modify such response actions or other activities to eliminate or mitigate such releases, discharges or threats.

#### **IX. DESIGNATED PROJECT COORDINATORS**

- 9.1 Respondent shall designate a Project Coordinator and shall notify EPA of such designation no later than four (4) calendar days after the effective date of this Order. Designation of a Project Coordinator shall not relieve the Respondent of its obligation to comply with all requirements of this Order. The Respondent's Project Coordinator shall be a technical and/or managerial representative of the Respondent and may be a contractor and/or consultant; provided, however, the Respondent's Project Coordinator shall not be its legal representative in this matter. The Project Coordinator for EPA designated pursuant to this Section and the Project Coordinator for the Respondent shall be responsible for overseeing the Work. To the maximum extent possible, communications between the Respondent and EPA and all documents concerning the activities performed pursuant to the terms and conditions of this Order, including plans, reports, approvals and other correspondence, shall be directed to the Project Coordinators.

- 9.2 The Project Coordinator for EPA is:

Michael Towle  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
Eastern Response Section (3HS31)  
1650 Arch Street  
Philadelphia, PA 19103  
(215) 814-3272

- 9.3 Respondent shall have the right to change its Project Coordinator. Such a change shall be accomplished by notifying the EPA Project Coordinator in writing at least five (5) calendar days prior to the change.
- 9.4 EPA shall have the right to change its Project Coordinator at any time without prior notice to Respondent. EPA's intent is to notify the Respondent as soon as practicable following any change of its Project Coordinator.
- 9.5 The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage or delay of Work except when such stoppage or delay is specifically required by EPA.
- 9.6 The EPA Project Coordinator shall have the authority to halt or modify Work or other activities performed by Respondent at the Site in order to eliminate a release or threat of release of hazardous substances. Such direction by the EPA Project Coordinator may be given verbally or in writing. If such direction is given verbally, the EPA Project Coordinator will later memorialize such direction in writing.

## **X. QUALITY ASSURANCE**

- 10.1 The Respondent shall use quality assurance, quality control, and chain of custody procedures in accordance with the following documents while conducting all sample collection and analysis activities required by this Order:
- (a) "EPA NEIC Policies and Procedures Manual" (EPA Document 330/9-78-001-R (revised November 1984));
  - (b) "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," (QAMS-005/80 (December 1980)); and
  - (c) "QA/QC Guidance for Removal Activities," (EPA/540/G-90/004 (April 1990)).
- 10.2 The Respondent shall consult with EPA in planning for, and prior to, all sampling and analysis required by the approved RAP. The Respondent shall use a

laboratory(s) which has a documented Quality Assurance Program that complies with EPA guidance document QAMS-005/80.

## **XI. SITE ACCESS**

- 11.1 As of the effective date of this Order, Respondent shall provide to EPA and its employees, agents, consultants, contractors and other authorized and/or designated representatives, for the purposes of conducting and/or overseeing the Work, access to all property owned or controlled by Respondent wherein Work must be undertaken. Such access shall permit EPA and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct all activities described in paragraph 11.3 of this Order.
- 11.2 To the extent that property wherein Work must be undertaken is presently owned or controlled by parties other than the Respondent, the Respondent shall use its best efforts to obtain Site access agreements from the present owners. Such access agreements shall be finalized as soon as practicable but no later than five (5) calendar days after receiving EPA's written approval to proceed. Such agreements shall provide reasonable access for Respondent and its employees, agents, consultants, contractors and other authorized and designated representatives to conduct the Work, and for EPA and its designated representatives to conduct the activities outlined in paragraph 11.3 below. In the event that any property owner refuses to provide such access or access agreements are not obtained within the time designated above, whichever occurs sooner, the Respondent shall notify EPA at that time, in writing, of all efforts to obtain access and the circumstances of the failure to obtain such access. EPA may then take steps to provide such access.
- 11.3 In accordance with law and regulation, and as appropriate, EPA and its employees, agents, contractors, consultants and other authorized and designated representatives shall have the authority to enter and freely move about the location where the response actions and/or Work is being performed at all reasonable times for the purposes of, inter alia: inspecting Work, records, operating logs and contracts related to the Site; reviewing the progress of the Respondent in carrying out the terms of this Order; conducting such tests as EPA deems necessary; using a camera, sound recording or other documentary type equipment; and verifying the data submitted to EPA by the Respondent. The Respondent shall permit such persons to inspect and copy all records, files, photographs, documents and other writings, including all sampling and monitoring data, in any way pertaining to the Work.
- 11.4 Respondent may make a claim of business confidentiality for information submitted pursuant to this Order in the manner described in 40 C.F.R. § 2.203(b) and in accordance with the provisions of Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604 (e)(7). Such an assertion shall be adequately substantiated in accordance with 40 C.F.R. § 2.204(e)(4) at the time the assertion is made.

Information subject to a confidentiality claim shall be made available to the public by EPA only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim of business confidentiality accompanies the information when it is submitted or made available to EPA, the submitted information may be made available to the public by EPA without further notice to Respondent. All submitted information, including information claimed as confidential, may be disclosed by EPA to its authorized or designated representatives, pursuant to applicable law and regulation.

- 11.5 The Respondent may withhold those records and documents covered by any privilege or protection recognized under federal law and applied by federal courts in actions commenced by the United States. In the event that the Respondent withholds a document as privileged, the Respondent shall provide EPA with the title of the document, the date of the document, the name(s) of the author(s) and addressee(s)/recipient(s), a description of the nature of the document and identification of the privilege asserted at the time such document is required to be provided to EPA.
- 11.6 Notwithstanding any provision of this Order, EPA retains all of its access and information-gathering authorities and rights under CERCLA, OPA, and the CWA and any other applicable statute and regulation.

## **XII. RESERVATION OF RIGHTS**

- 12.1 Except as expressly provided in this Order, EPA reserves all rights, claims, interests and defenses it may otherwise have, and nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, including the right to seek injunctive relief and/or the imposition of statutory penalties.
- 12.2 As provided by this Order, EPA expressly reserves its right to disapprove of Work performed by Respondent; to halt Work being performed by Respondent if Respondent has not complied with this Order, or at any time EPA deems necessary to protect public health, welfare or the environment and to perform such Work; to request or require that Respondent perform response actions in addition to those required by this Order. Further, EPA reserves the right to undertake response action at any time EPA deems appropriate. In the event that EPA requires Respondent, and Respondent declines, to correct and/or re-perform work that has been disapproved by EPA and/or to perform response actions in addition to those required by this Order, EPA reserves the right to undertake such actions and seek reimbursement of the costs incurred and/or to seek any other appropriate relief. In addition, EPA reserves the right to undertake removal and/or remedial actions at any time that such actions are appropriate under the NCP and to seek reimbursement for any costs incurred, and/or take any other action authorized by law.

- 12.3 EPA reserves the right to bring an action against the Respondent for recovery of all recoverable costs incurred by the United States related to this Order which are not reimbursed by the Respondent, as well as any other costs incurred by the United States in connection with response actions conducted at the Site.
- 12.4 This Order concerns certain response actions (Work described in Section VIII, above) concerning the Site. Such response actions do not fully address all contamination at the Site. Subsequent response actions which may be deemed necessary by EPA are not addressed by this Order. EPA reserves all rights including, without limitation, the right to institute legal action against Respondent and/or any other parties, in connection with the performance of any response actions not addressed by this Order.
- 12.5 EPA reserves the right to take enforcement actions, including actions for monetary penalties, for any violation of law, regulation, or of this Order. Failure to comply with this Order subjects Respondent to the assessment of civil penalties of up to \$32,500 per day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure pursuant to Sections 106(b) and 107(c) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c), Section 311(b)(7)(B) of CWA, 33 U.S.C. § 1321 (b)(7)(B) and 40 C.F.R. Part 19. EPA may also undertake such other actions as it may deem necessary or appropriate for any purpose including, but not limited to, actions pursuant to Sections 104 and/or 106 of CERCLA, 42 U.S.C. §§ 9604 and 9606 and Section 311 of CWA.
- 12.6 Nothing in this Order shall limit the authority of the EPA On-Scene Coordinator as outlined in the NCP, CERCLA, CWA and OPA.

### **XIII. OTHER CLAIMS**

- 13.1 Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not bound by this Order for any liability it may have relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous substances, hazardous wastes, oil, pollutants or contaminants found at, taken to, or taken from the Site.
- 13.2 This Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).
- 13.3 Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent, or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held out as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

- 13.4 Nothing herein shall constitute or be construed as a satisfaction or release from liability of Respondent or any other person.

#### **XIV. OTHER LAWS**

- 14.1 All Work shall be undertaken in accordance with the requirements of all applicable and/or relevant and appropriate local, State and Federal laws and regulations, as required by the NCP.

#### **XV. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

- 15.1 This Order is issued on the date it is signed by EPA
- 15.2 The effective date of this Order shall be six (6) business days after it is signed by EPA.
- 15.3 This Order may be modified or amended by EPA. Such amendments shall be in writing and shall have as their effective date the date on which such amendments are signed by EPA. Modifications to the EPA-approved RAP and its implementation may be made by EPA including the EPA Project Coordinator. Such modifications shall be memorialized in writing by the Project Coordinator.
- 15.4 Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon approval by EPA, incorporated into this Order. Any non-compliance with such EPA-approved reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order. Determinations of non-compliance will be made by EPA.
- 15.4 No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to obtain formal approval when required by this Order, and to comply with the requirements of this Order unless formally modified.

#### **XVI. LIABILITY OF THE UNITED STATES GOVERNMENT**

- 16.1 Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent or of its employees, agents, servants, receivers, successors or assigns, or of any persons including, but not limited to firms, corporations, subsidiaries, contractors or consultants in carrying out the Work, nor shall the United States Government or any agency thereof be held out as a party to any contract entered into by Respondent in carrying out the Work.

## **XVII. FAILURE TO PERFORM/PERFORMANCE EVENTS**

- 17.1 In the event of an inability or anticipated inability on the part of Respondent to perform any of the actions or Work required by this Order in the time and manner required herein, the Respondent's Project Coordinator shall notify EPA orally as soon as possible but no later than within twenty-four (24) hours of the time Respondent becomes aware or should have become aware of such event (or, if the event occurs on a Friday or Saturday, no later than the following Monday) and in writing no later than seven (7) calendar days after Respondent becomes aware, or should have become aware, of such delay or anticipated delay. Such written notification shall be certified by a responsible official of Respondent in accordance with Section XVIII of this Order and shall describe fully the nature of the delay, including how it may affect the Work, RAP and schedule; the actions that will be or have been taken to mitigate, prevent, and/or minimize further delay; and the timetable according to which future actions to mitigate, prevent and/or minimize the delay will be taken. Such notification shall not relieve Respondent of any obligation of this Order. The Respondent shall adopt all reasonable measures to avoid and minimize such delay.
- 17.2 Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the unilateral performance of the required actions by EPA pursuant to applicable authorities, an action to recover treble damages pursuant to CERCLA, and/or the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law.
- 17.3 Nothing in this paragraph or any other provision of this Order shall be construed so as to limit any powers EPA may have under CERCLA, CWA, OPA, the NCP, or any other law or regulation.

## **XVIII. CERTIFICATION OF COMPLIANCE**

- 18.1 a. Unless otherwise required by the terms of this Order, any notice, report, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Order shall be certified by the Respondent, a responsible official of the Respondent or by the Project Coordinator for the Respondent. The term "responsible official" means: (i) a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in 1987 dollars when the consumer price index was 345.3), if authority to sign documents has been assigned or

delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partner or the proprietor, respectively.

b. The written Final Report required by paragraph 8.8 of this Order, and any written notification described in paragraph 17.1 of this Order shall be certified by the Respondent or a responsible official of the Respondent.

18.2 The certification required by paragraph 18.1 of this Order shall be in the following form:

Except as provided below, I certify that the information contained in or accompanying this (type of submission) is true, accurate, and complete.

As to (the/those) portion(s) of this (type of submission), for which I cannot personally verify (its/their) accuracy, I certify under the penalty of law that this (type of submission) and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: \_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

18.3 Submission of documents pursuant to this Order which are found by EPA to contain false information shall constitute a failure to comply with this Order and shall subject Respondent to, among other things, penalties whether or not a responsible official of Respondent has certified the document.

### **XIX. SHIPMENT OF HAZARDOUS SUBSTANCES**

19.1 Respondent shall, prior to any off-site shipment of hazardous substances from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the notification to EPA of shipments shall not apply to any such off-site shipments when the total volume of all such shipments will not exceed ten (10) cubic yards. Notifications to states in those circumstances shall be governed by applicable state law.

- 19.2 The notification required by paragraph 19.1 shall be in writing and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation of the hazardous substances. Respondent shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state or to a facility in another state.
- 19.3 The identity of the receiving facility and state will be determined by Respondent unless disapproved by EPA. Respondent shall provide all relevant information, including information required by paragraph 19.2, above, relating to the off-site shipments as soon as practicable but no later than one (1) business day before the hazardous substances are actually shipped.

#### **XX. NOTICE OF INTENT TO COMPLY**

- 20.1 Respondent shall notify EPA's Project Coordinator within seven (7) business days after the issue date of this Order of Respondent's intention to comply with the terms of this Order, and whether it will perform the Work described in Section VIII. Failure of Respondent to provide notification to EPA's Project Coordinator within this time period shall be deemed a violation of this Order by Respondent.

#### **XXI. OPPORTUNITY TO CONFER WITH EPA**

- 21.1 Not later than five (5) business days from the date of issuance of this Order, Respondent may confer with EPA to discuss this Order. Such conference is not an adversarial hearing or part of a proceeding to challenge this Order, and no official stenographic record of such conference shall be kept.

#### **XXII. ADMINISTRATIVE RECORD**

- 22.1 The Administrative Record upon which this Order is issued is available for review by Respondent's representatives at its request. Requests to review the Administrative Record shall be submitted to the EPA Project Coordinator designated pursuant to Section IX of this Order.

#### **XXIII. RECORD RETENTION**

- 23.1 Respondent shall preserve all documents and information relating to the Work performed under this Order, or relating to the hazardous substances found at or released from the Site, for six (6) years following completion of the response action required by this Order. In addition, Respondent shall also retain, as

appropriate, monthly reports on analytical services pursuant to OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to Potentially Responsible Party-Lead Superfund Sites," (July 6, 1992). At the end of this six year period and thirty (30) days before any document or information is destroyed, Respondent shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA.

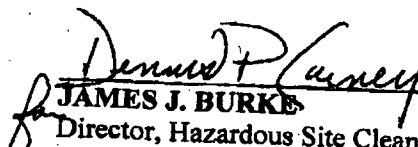
#### **XXIV. DEFINITIONS**

- 24.1 "Business days" as used in this Order shall mean every day of the week except Saturdays, Sundays and federal holidays.
- 24.2 "Calendar days" as used in this Order shall mean every day of the week, including Saturdays, Sundays and federal holidays.
- 24.3 "Days" as used herein shall mean "calendar days" unless specified otherwise.
- 24.4 All terms not defined herein shall have the meanings set forth in CERCLA, OPA, the CWA, and the NCP.

#### **XXV. NOTICE OF COMPLETION**

- 25.1 When EPA determines, after EPA's review and approval of the Final Report required pursuant to paragraph 8.8 of this Order, that the response action specified in Section VIII of this Order has been fully performed, and upon receipt of penalties hereunder, with the exception of any continuing obligations required by this Order, including those requirements specified in Sections XII ("Reservation of Rights"), XIII ("Other Claims"), XVI ("Liability of the United States"), and XXIII ("Record Retention"), EPA will provide a notice of completion to the Respondent.

**IT IS SO ORDERED.**

  
JAMES J. BURKE  
Director, Hazardous Site Cleanup Division  
U.S. Environmental Protection Agency  
Region III

8/3/07  
Date

# **Exhibit A**



**STONEY CREEK**  
TECHNOLOGIES LLC  
3300 W. 4th St.  
Trainer, PA 19061

Phone: 610.494.3361  
Fax: 610.497.3279  
www.sctsltd.com

FACSIMILE TRANSMITTAL SHEET

TO: Mike Towle FROM: Sam  
COMPANY:

DATE: 4/30/07  
FAX NUMBER: 215-814-3254 TOTAL NO. OF PAGES INCLUDING COVER: 7  
PHONE NUMBER:

RE: Removal Response Action

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

**Stoney Creek Technologies  
Removal Response Action**

**Procedures and Conditions for Stoney Creek Technologies' Mitigation of Potential Threats**

This document contains procedures and conditions regarding certain operations at Stoney Creek Technologies' facility in Trainer, PA, intended to mitigate potential threats posed to human health and/or the environment.

This document does not address nor take a position, expressed or implied, regarding ownership of property at the Stoney Creek Technologies facility. This document is issued to Stoney Creek in its capacity as a potentially responsible party and its current status of an operator at the facility.

**BACKGROUND**

On April 17 2007, the U.S. Environmental Protection Agency (EPA) On-Scene Coordinator (OSC) determined, pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act that the Stoney Creek Technologies Site posed a potential threat to human health and/or the environment. The potential threats are summarized in FOLREP 01 and Special Bulletin A issued by the OSC on April 17, 2007. Briefly, the threats are posed by an inventory of chemical substances at Stoney Creek Technologies' facility which are normally safeguarded by the facility's normal operations and workforce. Due to financial and legal issues (not identified herein), the ability of Stoney Creek Technologies to perform all actions that may be required to safeguard the inventory and prevent a threat to the public health and welfare is impaired. Notably, Stoney Creek Technologies is not able to pay for electricity critical to the operation of certain systems necessary to prevent a release of chemicals and minimize the potential for uncontrolled fire.

The NCP is documented in the Code of Federal Regulations (CFR) at 40 CFR Part 300. The purpose of the NCP is to provide the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants.

Among other things, pursuant to the NCP, the OSC directs the response efforts and coordinates all other efforts at the scene of a discharge of oil or a release of hazardous substances (40 CFR 300.120). A release of hazardous substances also means the threat of a release as defined in the NCP.

Pursuant to the NCP, the OSC evaluates threats posed by hazardous substances by conducting an evaluation as described at 40 CFR 300.410. The OSC evaluates the magnitude of the threat and, considering the factors listed at 40 CFR 300.415(b)(2), determines the appropriate extent of action to take in response to a given release or threat.

of release. The OSC has evaluated the threat and authorized response actions to mitigate the threats posed by the Stoney Creek Technologies Site. The threat, the consideration of the factors, and the extent of the actions to take in response to the threat are documented in POLREP 01 and Special Bulletin A, dated April 17, 2007, and POLREP 02 and Special Bulletin B, dated April 25, 2007.

Pursuant to EPA Delegation of Authority 14-2, the On-Scene Coordinator is authorized to determine the need for emergency response and to authorize the actions necessary to respond up to a funding limit of \$250,000. Actions that necessitate higher levels of funding are authorized by the Director of the Hazardous Sites Cleanup Division.

Regarding Stoney Creek Technologies, among other actions, the OSC authorized activity to identify, evaluate, and arrange for or operate facility systems (e.g., nitrogen system), or take other similar actions, necessary to minimize the potential for fire or chemical reaction or release. These actions would allow for the reduction of the potential threat posed by the Site. This action item is identified in POLREP 01 and Special Bulletin A and is clarified in POLREP 02 and Special Bulletin B. The clarification of the action item specifies that actions may include operation of facility systems or other activities that result in the removal of chemical product inventory from the facility, for example by transportation into the stream of commerce. These action items describe the activities to be taken, or directed, or authorized by the OSC to mitigate the threats posed by the Site.

The OSC has determined that reduction of chemical inventory to be accomplished by processing of chemicals at the Site for the purpose of removal of chemical inventory from the Site into the stream of commerce can be an effective means of reducing the threats posed by the Site as described in the POLREPs and Special Bulletin documents issued by the OSC. This determination is based upon certain controlled procedures and conditions for conducting on-Site processing operations identified below. The OSC also believes that the immediate cessation of operation at the facility could potentially result in increased overall response costs as materials currently in tanks may become less useful in commerce and that continued safe operation by Stoney Creek Technologies is an effective means of immediate risk reduction. The OSC believes that Stoney Creek Technologies' trained employees are capable of continuing safe operation of the facility for the purposes described herein and their continued operation in order to reduce inventory would be immediately less costly to the EPA and the Superfund.

#### SITUATION

On April 26, 2007, the Pennsylvania Department of Environmental Protection (PADEP) issued an Order to Stoney Creek Technologies that, among other things, suspended permits under which the facility operates to manufacture chemicals. The Order also directs the facility to not operate certain systems covered by permits until certain conditions are met. The Order effectively disallows Stoney Creek Technologies the ability to operate under its permits.

The OSC has coordinated with PADEP. On April 25, 2007, the OSC informed PADEP

of the risk reduction that may be achieved by the removal of chemical inventory from the Site through various means which may include production of chemicals for sale. PADEP acknowledged this potential for risk reduction and has informed the OSC that the OSC should decide upon on-Site actions that may lead to the reduction of risk at the Site through the reduction of inventory. PADEP expected that the OSC would be directly involved in any such decisions.

At this time, Stoney Creek Technologies continues to employ a trained workforce capable of operating facility systems including chemical production systems and safety systems intended to safeguard the chemical inventory at the Site. Stoney Creek Technologies believes that its continued safe operation of the facility will allow it best address and satisfy the conditions of the PADEP Order.

The OSC determined that reduction of chemical inventory accomplished by processing of chemicals at the Site for the purpose of removal of chemical inventory from the Site into the stream of commerce is an effective means of reducing the immediate threats posed by the Site. This effectively allows Stoney Creek Technologies to continue to operate its facility after receipt of the PADEP Order by agreement to the procedures and conditions herein.

After discussion with the OSC and consideration of the procedures and conditions outlined in this document on April 25, 2007, Stoney Creek Technologies intends to conduct operational activity at the Site which would result in the reduction of the chemical inventory at the Site which contributes to the threat and which would result in the production of chemicals for sale into commerce. On April 26, 2007, the OSC authorized operational activity by Stoney Creek Technologies' workforce which would result in the reduction of on-Site chemical inventory consistent with the procedures and conditions outlined in this document.

#### PROCEDURES AND CONDITIONS

The procedures and conditions contained herein are for the purpose of providing for the conduct of certain operations that reduce chemical inventory which currently contributes to the threats posed by the Site.

- 1) On-Site operations, including chemical production activities, are to be coordinated with the OSC, or the OSC's designated representative. This includes Stoney Creek Technologies routinely providing the OSC with information identifying the status and/or schedule of activities related to the production of chemicals, and informing the OSC of production operations before they occur.
- 2) On-Site operations must result in a reduction of the chemical inventory at the Site through the established practice of sale into the stream of commerce to established and/or responsible customers. Stoney Creek Technologies will provide promptly to the OSC accurate information identifying the reduction of chemical inventory achieved and to be achieved by the production of chemicals and their removal.

from the Site.

- 3) On-Site operations must be conducted safely and consistently with proven facility practices and procedures that include operation of all pollution control devices and safety systems (e.g., nitrogen system).
- 4) On-Site operations must be conducted in substantial compliance with the substantive requirements of environmental regulations identified to Stoney Creek Technologies in permits held by the facility or otherwise identified by the OSC. Stoney Creek Technologies will continue normal procedures of coordination with local authorities and agencies (e.g., DELCORA).
- 5) Stoney Creek Technologies will immediately notify the OSC of any and all conditions or situations in the course of production which pose a threat of release of hazardous substances or which constitute unsafe conditions. Further, Stoney Creek Technologies will immediately notify the OSC of releases of hazardous substances and/or discharges. Stoney Creek Technologies will continue operations consistent with any/all existing safety plans and safety procedures.
- 6) Stoney Creek Technologies will inform the OSC if it stops production activities or if it intends to stop production activities.
- 7) Stoney Creek Technologies will inform the OSC before bringing any new chemical or material onto the Site which significantly contributes to the threats posed by the Site, but which may be necessary to the reduction of on-Site chemical inventory. Stoney Creek Technologies and the OSC will evaluate this action in the context of the reduction of threat before implementation.
- 8) On-Site operations inconsistent with these procedures and conditions and which may result in a release posing a threat to public health or the environment may be halted or modified at any time as directed by the OSC.
- 9) Stoney Creek Technologies will continue to provide access to the property and facility to EPA, its representatives and PADEP, in accordance with signed access agreements and information control agreements (if any), and to implement these procedures.

#### GENERAL PROVISIONS AND UNDERSTANDINGS

The OSC explained the background information contained herein to Stoney Creek Technologies including measures to address environmental and public health threats during Stoney Creek Technologies' operation of current production systems to reduce inventory. The OSC and Stoney Creek Technologies discussed the information contained herein. Stoney Creek Technologies understands the Procedures and Conditions identified herein.

The OSC and Stoney Creek Technologies will at all times endeavor to cooperate to reduce the chemical inventory at the Site. In the event of disagreement, the decisions of the OSC are final. Typically, the OSC (or his designated representative) will be present at the facility or available by contact through the phone numbers provided below.

This document does not alter the requirements of the Order issued by PADEP or otherwise relieve Stoney Creek Technologies of any of the obligations contained therein.

Operations inconsistent with this document are not authorized by the OSC.

These Procedures and Conditions do not constitute a representation by EPA that the environmental and public health threats at this facility will be eliminated. It is the first-line responsibility of Stoney Creek Technologies to conduct all actions and activities at the facility in a safe manner to prevent/reduce threats. This may include safety measures above and beyond the procedures outlined in this document. Additionally, EPA may, at any time, require further actions or require cessation of activities at the facility in order to prevent, reduce or address threats to public health or the environment posed at the Site.

This document does not address or modify Stoney Creek Technologies' interests in any property or assets.

#### EPA CONTACTS:

OSC Michael Towle (215) 287-2443  
OSC Representative Jack Kelly (215) 514-6792  
OSC Representative Robert Kelly (215) 266-7456

EPA On-Scene Coordinator:

Michael Towle  
Michael Towle

The undersigned signatory represents he has authority to sign on behalf of Stoney Creek Technologies and acknowledges that he has received these Procedures and Conditions:

Stoney Creek Technologies:

Sam Thomas  
Sam Thomas

DATE:

4/30/07

**BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**IN THE MATTER OF:**

Stoney Creek Technologies Site

Chemtura Corporation

**Docket No. CERC-03-2007- 0255-DC**

**Respondent**

Proceeding Under Section 106(a)  
of the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended  
by the Superfund Amendments and  
Reauthorization Act of 1986,  
42 U.S.C. § 9606(a)

Proceeding Under Section 311(c) and (e)  
of the Clean Water Act, as amended,  
33 U.S.C. § 1321 (c) and (e)

**ESTABLISHMENT OF THE ADMINISTRATIVE RECORD**

Pursuant to authority vested in the President of the United States under Section 113(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. Section 9613(k); delegated to the Administrator of EPA by Executive Order No. 12580 [52 Fed. Reg. 2923 (January 29, 1987)]; further delegated to the Regional Administrators by EPA Delegation No. 14-22 (December 7, 2000), and further delegated to the Director of the Hazardous Site Cleanup Division by EPA Region III Delegation 14-22 (September 1, 2005), I hereby establish the attached documents as the Administrative Record supporting issuance of the Administrative Order corresponding to CERC-03-2007-0255-DC.

  
**JAMES J. BURKE**

Director, Hazardous Site Cleanup Division  
U.S. Environmental Protection Agency  
Region III

8/3/07  
Date

## **Stoney Creek Technologies Site**

### **Administrative Record File - Initiation of Response Action by OSC List of Documents**

- Order dismissing Bankruptcy Case No. 07-11085-DWS, dated 4/4/07, sent to EPA by letter dated 4/10/07. The Motion to Dismiss Bankruptcy Case No. 07-11085-DWS by the U.S. Trustee is attached.
- Transcript of hearing re: Stoney Creek Technologies LLC before the Bankruptcy judge 2/2/07 and 2/5/07
- Email correspondence, dated 4/12/07, from Ray Brown, SCT, to Charles Clark, et. al. re: Stoney Creek Tech. forwarded to Michael Towle 4/12/07
- OSC LOG for 12/13 April 2007 prepared by Michael Towle summarizing activities of 4/12-13/07
- POLREP 01 and Special Bulletin A, dated 4/17/07
- Stoney Creek Technologies' safety briefing package with chemical information
- Stoney Creek Technologies' tank contents and location diagram
- Chemical Inventory, approximate date 4/18/07, of chemical substances (raw materials, intermediates, finished products) at the Site
- POLREP 02 and Special Bulletin B, dated 4/25/07
- Administrative Order to Stoney Creek Technologies LLC from PADEP, dated 4/26/07
- Procedures and Conditions for Stoney Creek Technologies' Mitigation of Potential Threats, dated 4/30/07
- POLREP 03, dated 5/10/07
- Response to Notice Letter from Synthetic Oils and Lubricants of Texas, Inc. ("Soltex"), dated 5/10/07
- Response to Notice Letter from Stoney Creek Technologies, dated 5/11/07
- Response to Notice Letter from Chemtura Corporation, dated 5/11/07
- POLREP 04, dated 5/31/07
- Updated Chemical Inventory, approximate date 7/2/07, of chemical substances (raw materials, intermediates, finished products) at the Site
- POLREP 05, dated 7/10/07
- Action Memorandum, dated July 27, 2007